

**REMARKS**

Claim 7 is pending in this application. By this Amendment, claim 7 is amended and claims 9-12 are canceled without prejudice to or disclaimer of the subject matter recited therein. Support for the amendments to claim 7 can be found, for example, on page 5, line 15 to page 8, line 12 of the specification. No new matter is added.

**I. The Claims Define Statutory Subject Matter**

The Office Action rejects claims 7-12 under 35 U.S.C. §101 because the claimed invention allegedly is directed to non-statutory subject matter. By this Amendment, claims 9-12 are canceled and claim 8 was canceled in a previous Amendment. Thus, the rejection of claims 8-12 is moot. Moreover, by this Amendment, claim 7 is amended in accordance with the Office Action. Thus, withdrawal of the rejection is respectfully requested.

**II. The Claims Define Patentable Subject Matter**

The Office Action rejects claims 7 and 9-12 under 35 U.S.C. §103(a) over U.S. Patent Application Publication No. 2004/0102843 to Yagi in view of U.S. Patent No. 4,969,468 to Byers et al. (hereinafter "Byers"). The rejection of claims 9-12 is moot and the rejection of claim 7 is respectfully traversed.

None of the applied references, either alone or in combination, teaches or would have rendered obvious "a plurality of electrodes each of which outputs the electrical stimulation pulse signal, has a needle-shaped end and is adapted to be implanted in the eye so as to stick in a bundle of nerve fibers of an optic papilla of the eye, each electrode having a predetermined length for placing its end in an optic nerve of the eye when the electrode is stuck in the optic papilla," as recited in independent claim 7 (emphasis added).

The Office Action acknowledges that Yagi does not teach a plurality of electrodes implanted in an eye of a patient so as to stick in an optic papilla, each electrode having a

predetermined length (see Office Action, page 3). However, the Office Action alleges that Byers, in col. 15, lines 4-11, remedies the deficiencies of Yagi (see Office Action, page 3). Specifically, the Office Action alleges that Byers teaches that it is known to use electrodes employed for electrically sensing or stimulating biological tissues, including electrode arrays which are disposed along the optic nerve or the paths where the optic nerve enters the cortex of an eye (see Office Action, page 3). Further, the Office Action alleges it would have thereby been obvious to one having ordinary skill in the art at the time of the invention to modify the artificial vision system as taught by Yagi with the electrode arrays as taught by Byers to render obvious the above-recited features (see Office Action, page 3). These assertions fail for at least the following reasons.

Byers merely discloses an electrode array as a device for making multiple electrical contacts with cellular tissues or organs and that "[t]he electrode array may be disposed along the optic nerve or the paths where the optic nerve enters the cortex" (emphasis added) (see Byers, Abstract and col. 15, lines 9-11). Indeed, Byers discloses that the array is attached to the cortex (i.e., the brain) with the needles penetrating the brain rather than the optic nerve (see Byers, col. 15, lines 11-13). Thus, Byers merely discloses that the electrode array is used to electrically stimulate a visual cortex of the brain as mentioned in the Background Art section of the present application, and not at all used in an eyeball. Accordingly, because Byers teaches attaching the electrode array to the brain and not an eyeball, Byers does not teach "a plurality of electrodes each of which outputs the electrical stimulation pulse signal, has a needle-shaped end and is adapted to be implanted in the eye so as to stick in a bundle of nerve fibers of an optic papilla of the eye, each electrode having a predetermined length for placing its end in an optic nerve of the eye when the electrode is stuck in the optic papilla," as recited in independent claim 7 (emphasis added).

For at least the foregoing reasons, Applicants respectfully submit that the subject matter recited in independent claim 7 is patentable over the applied references.

Consequently, Applicants respectfully request withdrawal of the rejection of claim 7.

**III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:BDM/hjr

Attachments:

Request for Continued Examination  
Petition for Extension of Time

Date: April 3, 2009

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